



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

July 12, 2016

Anne Rudisill
A+ Pets
4738 Tallent Road
Morganton, North Carolina 28655

Notice of Warning and Notice of Deficiency

**Re: Violation of Title 02 N. C. Administrative Codes ("NCAC") Chapter 52J,
Sections .0101(5), .0201(g), .0202(a), .0204(c and f), .0205(a) and .0210 (c).**

AWS-WL-2016-18

Pet Shop: A+ Pets
License No. 20445

Dear Ms. Rudisill:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N. C. Department of Agriculture and Consumer Services ("NCDA&CS") received a complaint concerning the sanitation of the facility and the health condition of an animal purchased from A+ Pets ("the pet shop"). AWS conducted an investigation of the pet shop which consisted of a site visit, interviews with staff, review of the pet shop records and review of the relevant medical records of the animal in question.

AWS Inspector Joshua James ("Inspector James") conducted a site visit on June 25, 2016. The site visit revealed that the records of 2 animals did not contain the required documentation of the deworming medication administered to the animals. The facility thermometer was placed directly in front of the air conditioning unit and fan. This thermometer apparently was nonfunctional as it read 14°F lower than the handheld thermometer used by the inspector. A check of the facility temperature showed that it exceeded the upper limit of 85°F in the animal areas.

The site visit also revealed 4 dog cages and 1 cat cage that were without solid resting surfaces. This deficiency had been noted on previous facility inspections (September 14, 2013, October 26, 2013 and June 6, 2015). In addition, the cat cage holding 4 cats did not have the required elevated resting surfaces. This cat cage failed to provide the required minimum size to house 4 kittens.

Enclosure

**cc: Dr. R. Douglas Meckes, State Veterinarian
Joe Reardon, Assistant Commissioner, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Christopher R. McLennan, Assistant Attorney General**

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0201 GENERAL

- (g) Each facility shall have the ability to confirm ambient temperature.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0202 INDOOR FACILITIES

(a) Indoor housing facilities for dogs and cats shall be adequately heated and cooled when necessary to protect the dogs and cats from cold and excessive heat and provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50 degrees F. or exceed 85 degrees F.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(f) In addition to Paragraph (b) of this Rule, each feline older than six months housed in any primary enclosure shall be provided a minimum of four square feet of floor space which may include elevated resting surfaces. Each feline younger than six months shall be provided 1.5 square feet. Not more than 12 cats shall be housed in the same primary enclosure.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0205 FEEDING

(a) Dogs and cats shall be fed at least once each 24-hour period except as otherwise might be required to provide adequate veterinary care. Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The food shall be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value. Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour interval between feedings is required if only two feedings are offered in a 24-hour period.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner. (b) If there is a disease problem that persists for more than 30 days at the facility, the facility operator shall obtain and follow a veterinarian's written recommendations for correcting the problem.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.

Inspector James also noted that the very small "Chihuahua-X" puppies were given adult dog food which was not only inappropriate for their life stage, the kibble pieces were too large for the puppies to easily ingest. Inspector James also noted a puppy with missing/thinning hair on its rear legs. This condition had not been noted by the staff present at the facility.

Based on the results of this investigation, the pet shop appears to have violated the following regulations:

- 1) 02 NCAC 52J .0101(5);
- 2) 02 NCAC 52J .0201(g);
- 3) 02 NCAC 52J .0202(a)
- 4) 02 NCAC 52J .0204(c and f);
- 5) 02 NCAC 52J .0205(a); and
- 6) 02 NCAC 52J .0210(c).

Pursuant to N. C. General Statute §19A-30, this Warning Letter, serves as written notice indicating in which respects the pet shop has failed to satisfy the requirements for the holding of a license as a pet shop.

The pet store is directed to:

- 1) Within 7 days of receipt of this Warning Letter, the pet shop operator shall institute a protocol to document the administration of all medications to include all of the information required in 02 NCAC 52J .0101(5);
- 2) Within 7 days of receipt of this Warning Letter, the pet shop operator shall institute a method to accurately confirm the temperature of the pet shop and shall keep the facility between the temperatures of 50°F and 85°F to comply with the requirements of 02 NCAC 52J .0201(g) and .0202(a);
- 3) Within 7 days of receipt of this Warning Letter, the pet shop operator shall provide solid resting surfaces in all kennels and cages sufficient to comfortably hold the occupants of the enclosure. In addition, elevated resting surfaces are to be provided to all primary enclosures housing 2 or more cats to comply with the requirements of 02 NCAC 52J .0204(c);
- 4) Immediately provide primary enclosures of sufficient space to meet the minimum size requirements of 02 NCAC 52J .0204(f); and
- 5) Within 7 days of receipt of this Warning Letter, the pet shop operator shall institute a protocol which conforms to the requirements of 02 NCAC 52J .0210(c).

Continued or future violation of these statutes or regulations will be considered to be a willful disregard or violation of the N. C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto may result in disciplinary action against your facility's license pursuant to N. C. General Statute §19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N. C. General Statute §19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division